



RECEIVED

Edward Phillips
Attorney

2004 JUN -7 AM 10:11

NCWKFR0313
111 Capital Blvd
Wake Forest, NC 27587-5900
Voice 919 554 7870
Fax 919 554 7913
edward.phillips@mail.sprint.com

T.R.A. DOCKET ROOM

June 4, 2004

Chairman Deborah Taylor Tate
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

Re: Direct Testimony of Hoke R. Knox
Docket No. 03-00633

Dear Chairman Tate:

Enclosed for filing in the above referenced docket is the original and thirteen copies of the direct testimony of witness Hoke R. Knox filed on behalf of SprintCom, Inc. d/b/a Sprint PCS. Under cover of this letter, copies of this filing are being served upon all parties of record.

Please do not hesitate to call me at your convenience if there are any questions or concerns with this filing.

Sincerely yours,

Edward Phillips

HEP:sm

Enclosure

cc: R. Dale Grimes
Timothy C. Phillips
Melvin J. Malone

DIRECT TESTIMONY
OF
HOKE R. KNOX
ON BEHALF OF
SPRINTCOM, INC., D/B/A SPRINT PCS

1 **Q. Please state your name and business address.**

2 A. My name is Hoke R. Knox. I am Senior Manager Regulatory Policy for Sprint
3 Corporation. My business address is 6450 Sprint Parkway, Overland Park,
4 Kansas 66251.

5 **Q. Please describe your educational background and work experience.**

6 A. I hold a B.S. in Business Administration from North Carolina Wesleyan College,
7 an A.A.S. in Industrial Management Technology from Pitt Community College,
8 and an A.A.S. in Electronics Technology from Pitt Technical Institute. I have
9 worked for Sprint since October 1969. Prior to my current position, I have held
10 several positions with Sprint in the areas of network switching, traffic staff
11 supervisor-traffic engineering, senior engineer-network planning, product
12 development manager, manager-network planning, manager-architecture &
13 strategic planning. My work experience has been in both the Local and Long
14 Distance divisions of Sprint. In my current position, I have responsibility for
15 developing state and federal regulatory and legislative policy for Sprint's local,
16 long distance, and wireless divisions. While my testimony is filed on behalf of
17 SprintCom, Inc., d/b/a Sprint PCS, my views reflect those of Sprint Corporation
18 as a whole.

19 **Q. What is your experience with respect to numbering issues?**

20 A. I serve as Sprint's primary member to the North American Numbering Council
21 (NANC), and I also serve as the Co-Chair of NANC. I am also chairing the
22 NANC's Intermodal Porting Interval Issues Management Group (IMG). I served

1 as Co-chair of the North American Numbering Council's Local Number
2 Portability Administration (LNPA) Architecture Task Force (1996-1997). I also
3 served as Co-chair of the NANC's LNPA Wireless/Wireline Task Force (1997). I
4 represented Sprint as the voting member of the LNP, L.L.C. (1996-1997) in the
5 Mid-West Region. I represented Sprint at the Illinois Commerce Commission's
6 (ICC) Local Number Portability (LNP) Steering Committee (1995-1997), the
7 ICC's LNP SMS Subcommittee (1995-1996), the ICC's LNP Switching
8 Subcommittee (1995-1996), and the ICC's Number Pooling Subcommittee (1996-
9 1997). I also represented Sprint at the USTA's Numbering Planning
10 Subcommittee (1993-1995).

11 **Q. Are you an attorney?**

12 A. No. However, in the performance of my responsibilities described above, I am
13 required to understand and implement on a day-to-day basis the obligations
14 imposed on Sprint by the Communications Act of 1934 as amended by the
15 Telecommunications Act of 1996 ("the Act" or "the 1996 Act") and the resulting
16 rules and regulations of the Federal Communications Commission ("FCC") and
17 state public utility authorities.

18
19 **Q. What is the purpose of your testimony in this proceeding?**

20 A. The purpose of my testimony is to demonstrate that members of the Tennessee
21 Coalition of Rural Incumbent Telephone Companies and Cooperatives
22 (hereinafter referred to as "Rural Coalition" or "Petitioners") have failed to

1 establish that they should be granted a suspension from the FCC's rules under
2 Section 251(f)(2) of the Telecommunications Act.

3
4 Sprint's primary concern in this proceeding is Petitioner's request for what is
5 effectively an indefinite suspension of their obligation. In particular, Sprint
6 strongly objects to a suspension until six months after the date by which the
7 applicable FCC Orders are no longer subject to appeal or six months after the date
8 by which the TRA has provided direction to the Petitioners on the rating and
9 routing issues raised in this Petition and in the CMRS Arbitration pending before
10 the TRA. Sprint does not, however, object to a limited suspension to allow
11 Petitioners adequate time to achieve "LNP Technical Capacity" as set forth in the
12 Petitioners' "Statements in Support of Local Number Portability Technical
13 Capacity" filed on May 19, 2004

14
15
16 **Background**

17
18 **Q. Did Sprint request implementation of local number portability from Rural**
19 **Coalition carriers?**

20 **A.** Yes, pursuant to 47 C.F.R. 52.23(c), Sprint sent bona fide requests, or BFRs, to
21 Ardmore Telephone Company, Inc., Ben Lomand Rural Telephone Cooperative,
22 Inc., CenturyTel, North Central Telephone Cooperative, Inc., TDS Telecom, Twin
23 Lakes Telephone Cooperative Corporation, Millington Telephone Company, and

1 Peoples Telephone Company. These BFRs were sent to these Rural Coalition
2 carriers on or before May 23, 2003.

3
4 According to FCC Rule 52.23(c), a LEC must make a long-term database method
5 for number portability available within six months after a specific request from
6 another telecommunications carrier in which that telecommunications carrier is
7 operating or plans to operate. Indeed, Sprint sent BFRs to many wireline carriers
8 near this date so that Sprint would be prepared to port with both wireline and
9 wireless carriers on November 24, 2003.

10
11 **Q. Why did Sprint send BFRs to these Rural Coalition carriers?**

12 A. Sprint sent BFRs to wireline carriers where Sprint has PCS coverage. Consistent
13 with the pro-competition rationale underlying LNP, Sprint sent BFRs to carriers
14 where it provides coverage in order to give as many consumers as possible the
15 opportunity to choose the service provider that best meet the consumer's needs.
16 Moreover, this method of determining where to send BFRs is completely
17 consistent with the federal rules which require only that a requesting
18 telecommunications carrier is operating or plans to operate in the requestee's
19 territory. The FCC affirmed Sprint's *modus operandi* in its November 10, 2003
20 Intermodal LNP Order in which it found that porting from a wireline carrier to a
21 wireless carrier is required where the requesting carrier's coverage area overlaps
22 the wireline company's service territory.¹

¹ See, *In the Matter of Telephone Number Portability*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116, ¶ 1 (rel November 10, 2003).

1

2 **Q. What elements are necessary for a BFR to be considered valid?**

3 A. The FCC addressed this issue in its June 18, 2003 LNP Fourth Report and Order.

4 In this Order the FCC laid out the elements of a valid BFR. First, and quite
5 obvious, the carrier must specifically request the implementation of LNP in its
6 BFR. Second, the carrier must identify the discrete geographic area covered by the
7 request. Finally, the carrier must provide a tentative date by which the requesting
8 carrier expects to provide portability.²

9

10 **Q. Did Sprint's BFRs to Rural Coalition carriers meet these elements of validity?**

11 A. Yes, the BFRs that Sprint sent to the aforementioned carriers clearly met these
12 elements. With respect to the first element—specific request for LNP—the top
13 paragraph of Sprint's BFR form states:

14 This form is used to request deployment of long-term Local Number
15 Portability as defined in the FCC mandates (CC Docket 95-116).
16 Specifically, this form requests that ALL codes be opened for portability
17 within the Metropolitan Statistical Area and wireline switch CLLI codes
18 designated below.
19

20 With respect to the second element—discrete geographic area—Sprint's BFRs list
21 the wireline switch CLLI codes in which Sprint requested LNP implementation.

22

23 With respect to the third element—date for implementation—Sprint's BFRs list

24 November 24, 2003 as the "Effective Date" for implementation. In short, Sprint's

² See, *In the Matter of Telephone Number Portability*, Fourth Report and Order, CC Docket No. 95-116, ¶ 10 (rel. June 18, 2003)

1 BFRs were valid and put Petitioners on notice of its intent to begin porting on
2 November 24, 2003.

3
4 **Q. You have made reference to a November 24, 2003 implementation date for**
5 **LNP, has this date been modified?**

6 A. Yes, the FCC essentially extended the LNP implementation date for small or 2%
7 LECs, such as Petitioners, until May 24, 2004. This applies to wireline carriers
8 both inside and outside the Top 100 MSAs. Sprint has worked diligently to
9 extend LNP to as many markets and to as many consumers as possible by this
10 date. The Tennessee Regulatory Authority (“TRA”) should deny the petitions for
11 suspension to ensure that wireline consumers in Petitioners’ territories will have
12 the opportunity to port as early as soon as practicable.

13
14 **Failure to Satisfy Section 251(f)(2) Tests**

15
16 **Q. Please outline the Section 251(f)(2) requirements.**

17 A. Section 251(f)(2) of the Act authorizes LECs to “petition a State commission for a
18 suspension or modification of a requirement . . . of subsection (b),” which
19 includes the Section 251(b)(2) obligation to provide LNP.³ A state commission
20 must make two separate findings in order to grant such a Petition. First, it must
21 find that grant of the requested relief is necessary:

- 22 (1) to avoid a significant adverse economic impact on users of
23 telecommunications services generally;
24

³ 47 U.S.C. § 251(f)(2).

1 (ii) to avoid imposing a requirement that is unduly economic
2 burdensome; or

3
4 (iii) to avoid imposing a requirement that it technically
5 infeasible.⁴
6

7 Second, the state commission must additionally find that the requested relief is
8 consistent with the public interest, convenience and necessity.
9

10 **Q. Who bears the burden of meeting these statutory tests?**

11 A. The Petitioners have the burden of demonstrating that both prongs of the statutory
12 test are satisfied.⁵ The Montana Commission has provided some guidance in this
13 regard, holding that a rural ILEC bears a “heavy burden” and must make a
14 “convincing showing that interconnection and competition will cause certain
15 harms”:

16 [I]t was the fundamental objective of Congress in passing the [1996]
17 Act to create competition in all telecommunications markets, for the
18 benefit of all telecommunications consumers, urban and rural. Given
19 this overarching legislative purpose, we find that requests to be exempt
20 from competition should not be granted lightly. Indeed, the language
21 of § 251(f)(2) creates a heavy burden for those who petition under it.⁶

22 The Ohio Commission has similarly held that grant of Section 251(f)(2) petitions
23 should be “the exception, rather than the rule”:

⁴ *Id.* at § 251(f)(2)(A)

⁵ See 47 C.F.R. § 51.405(b) (“A LEC with fewer than two percent of the nation's subscriber lines installed in the aggregate nationwide must prove to the state commission, pursuant to section 251(f)(2) of the Act, that it is entitled to a suspension or modification of the application of a requirement or requirements of section 251(b) or 251(c) of the Act.”). See also *Western Reserve*, Case Nos. 99-1542-TP-UNC and 00-430-TP-UNC, 2002 Ohio PUC LEXIS at *12 (May 18, 2000) (“The burden of demonstrating that the suspension/modification request is warranted is on Western Reserve and ALLTEL.”).

⁶ *Ronan Telephone Section 251(f)(2) Petition Denial Order*, Docket No. D99.4 11, Order No. 6174c, 1999 Mont PUC LEXIS 83 (Montana Public Service Commission, Nov 2, 1999)

1 We believe that Congress did not intend to insulate smaller or rural
2 LECs from competition, and thereby prevent subscribers in those
3 communications from obtaining the benefits of competitive local
4 exchange service.⁷

5 And, very recently, the Indiana Utility Regulatory Commission (“IURC”)
6 referenced the FCC’s standard that “a carrier must show through ‘substantial
7 credible evidence’ the facts why it cannot meet the scheduled LNP deployment,
8 and provide a detailed explanation of the activities the carrier undertook before
9 requesting the extension to meet the schedule LNP implementation date.”⁸

10
11 Also instructive is a recent FCC order denying a rural LEC’s request for LNP
12 waiver,

13 We find that NEP has not presented “extraordinary circumstances beyond
14 its control in order to obtain an extension of time.” Rather, NEP
15 consciously made a business decision to upgrade its switches on a certain
16 schedule. NEP has not shown that challenges it may face are different
17 from those faced by similarly situated carriers who are able to comply.
18 Generalized references to limited resources and implementation problems
19 do not constitute substantial, credible evidence justifying an exemption
20 from the porting requirements. NEP has known since 1996 that it would
21 need to support LNP within six months of a request from a competing
22 carrier. Although wireless LNP was delayed, all carriers have been on
23 notice since July 2002 that wireless and intermodal LNP would become
24 available beginning in November 2003. Thus, NEP has had sufficient
25 time to follow through with these mandates and prepare for LNP.⁹
26

27 **Q. Have the Petitioners satisfied the requirements of Section 251(f)(2)?**

⁷ *Western Reserve Application*, Case Nos. 99-1542-TP-UNC and 00-430-TP-UNC, 2002 Ohio PUC LEXIS at *13 (May 18, 2000), quoting *Local Competition Order*, 11 FCC Rcd 15499, 16118 ¶ 1262 (1996).

⁸ *In the Matter of Citizens Telephone Corporation, et al*, Pursuant to Section 251(f)(2) of the Communications Act of 1934, As Amended, For Suspension of Wireline-to-Wireless Number Portability Requirements, Cause Nos. 42529, 42536 and 42550, Order approved May 18, 2004 (“Indiana Order”) citing *In the Matter of Telephone Number Portability*, 11 FCC Rcd 8352, ¶ 168 (Rel. July 1, 1996) (“First Report”).

1 A. No, as detailed below, the Petitioners have failed to demonstrate that providing
2 LNP to wireless carriers:

- 3 ▪ Is technically infeasible;
- 4
- 5 ▪ Would be unduly economic burdensome; and/or
- 6
- 7 ▪ Would cause a significant adverse economic impact on
- 8 users of telecommunications services generally.
- 9

10 Nor have the Petitioners demonstrated how a TRA order precluding their
11 customers from enjoying new options (*i.e.*, porting their number to wireless
12 carriers) would promote the public interest.¹⁰

13
14 **Q. Before addressing the statutory criteria for an exemption, would you please**
15 **address the Petitioners' claim that there are a number of issues yet to be**
16 **resolved?**

17 A. Yes. The Petitioners claim that there are a number of unresolved issues
18 surrounding LNP. This is simply not true. In fact, the FCC has already rejected
19 many of the Petitioners' arguments and concluded:

- 20 ▪ LEC-wireless porting does not constitute geographic
21 location portability.¹¹
- 22
- 23 ▪ LECs cannot require wireless carriers to interconnect
24 directly to their networks as a condition to providing
25 LNP.¹²
- 26

⁹ *In the Matter of Telephone Number Portability, Petition of the North-Eastern Pennsylvania Telephone Company for Temporary Waiver of its Porting Obligations*, CC Docket No. 95-116, Order, ¶ 10 (Rel. May 13, 2004) (citations omitted).

¹⁰ § 251(f)(2)(B)

¹¹ *See, In the Matter of Telephone Number Portability*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116, ¶ 28 (rel. November 10, 2003).

¹² *See id.* at ¶¶ 23-24, 26 and 28.

- 1 ▪ LECs cannot require wireless carriers to obtain their own
2 set of telephone numbers as a condition to providing
3 LNP.¹³
- 4
- 5 ▪ LECs cannot require wireless carriers to negotiate or
6 arbitrate an interconnection contract as a condition to
7 providing LNP.¹⁴
- 8

9 Although Petitioners devote a substantial portion of their Petition arguing
10 technical infeasibility on the basis of rating and routing concerns, the FCC further
11 ruled that LEC-wireless porting raises no issues of call rating or routing for LEC
12 customer calls to wireless customers with ported numbers.¹⁵ In point of fact, the
13 manner that the Petitioners will rate and route their customers' calls to wireless
14 customers with ported numbers is identical to the way they rate and route their
15 customers' calls to wireless customers with non-porting numbers. Moreover,
16 concerns or disputes regarding transport do not "provide a reason for delay or
17 limit the availability of porting from wireline to wireless carriers."¹⁶ Furthermore,
18 in a Public Notice released on May 13, 2004, the FCC stated:

19 **Routing Issues** — Some carriers have expressed concern about
20 transport costs associated with routing calls to ported numbers where
21 porting results in calls to the ported number being routed outside the
22 original rate center. The Commission clarified in the *Intermodal LNP*
23 *Order* that the requirements of the LNP rules do not vary depending on
24 how calls to the number will be routed after the port occurs. Thus, a
25 carrier may not refuse a porting request based on routing issues.¹⁷
26

27 In short, the FCC has foreclosed arguments related to rating, routing and
28 interconnection. As a result, Sprint does not believe the TRA should entertain

¹³ See *ibid*

¹⁴ See *id* at ¶¶ 34-37

¹⁵ See *id* at ¶ 28

¹⁶ *Id* at n 75

1 such arguments in its consideration of the Petitioners' requests for LNP
2 suspension.

3

4 **Q. Have any other state public utility commissions considered a request similar**
5 **to Petitioners' request for suspension until six months following resolution of**
6 **LNP issues?**

7 A. Yes, petitioners in Indiana requested a temporary stay be granted until six months
8 after full and final resolution of LNP by the FCC. In denying the petitioners'
9 requests for relief, the Indiana Utility Regulatory Commission stated:

10 As for Petitioners' requests that a temporary stay be granted until six
11 months after resolution of LNP by the FCC, we note that the FCC has
12 chosen to impose porting obligations despite the fact that there are still
13 unresolved issues (recognized by the NPRM on rate-center disparity.)
14 Given that, we decline to wait until "full and final resolution of the
15 issues." "Resolution," as these Petitioners might define it, could be a
16 long way off.¹⁸

17

18 **Q. Please describe the type of number portability that is the subject of this**
19 **proceeding.**

20 A. The type of number portability that is required and the type of number portability
21 that Sprint is seeking from Petitioners is service provider portability. Service
22 provider portability allows a consumer to retain a phone number at the same
23 location when switching from one service provider to another. The FCC's
24 November 10, 2003 Intermodal Porting Order clearly found that service provider
25 portability is not "location portability" because the porting-in carrier must

¹⁷ *Public Notice*, Wireless Telecommunications Bureau and Wireline Competition Bureau Remind Carriers Outside the 100 Largest MSAs of the Upcoming May 24, 2004 Local Number Portability Implementation Deadline, DA 04-1340 (rel May 13, 2004).

¹⁸ *See*, Indiana Order at p. 30.

1 maintain the number's original rate center designation following the port. In
2 other words, the number is not re-located to a new rate center and intermodal
3 porting is consistent with the requirement that carriers support their customers'
4 ability to port numbers while remaining at the same location.

5

6 **Q. Why is it important to accurately describe the type of portability that is the**
7 **subject of this proceeding?**

8

9 A. It is important to accurately describe the type of portability so that the TRA
10 understands that Sprint is seeking service provider portability which is required.
11 To be clear, Sprint does not seek location portability. Should Sprint port-in a
12 number from a current Rural Coalition customer, Sprint will maintain the
13 number's original rate center designation following the port. In other words, the
14 ported-in number will continue to be associated with the rural LEC exchange
15 from which it came. This also means that the number can be dialed in the same
16 manner as it is now and the rating of the call to that number will also remain the
17 same. In an intermodal port, nearly everything about the number will stay the
18 same except a new wireless service provider will carry calls to and from the
19 customer.

20

21 **Q. Have the Petitioners demonstrated that it is not technically feasible to**
22 **provide wireline-to-wireless number portability?**

23

24 A. No, to the contrary, as exhibited in Petitioners' "Statements in Support of Local
25 Number Portability Technical Capacity" filed on May 19, 2004, all Petitioners

1 concede that they are or will be technically capable of supporting LNP. There is
2 no question that it is technically feasible to provide wireline-to-wireless number
3 portability even according to Petitioners' own statements. Moreover, Sprint, as an
4 incumbent Local Exchange Carrier ("ILEC"), can confirm that LEC-wireless
5 porting is technically feasible. Sprint's local division and many other wireline
6 carriers have been porting with wireless carriers since November 24, 2003.
7 Sprint's local division has successfully ported numbers to wireless carriers that do
8 not have numbers assigned to the Sprint LEC rate center, with carriers to whom
9 Sprint is not directly connected, and with carriers with whom Sprint has not
10 executed an interconnection agreement. Sprint's wireless division shares similar
11 intermodal porting successes with other wireline carriers in the same scenarios.
12 In short, it is simply implausible to argue that intermodal LNP is technically
13 infeasible.

14
15 In this regard, the Iowa Commission, after conducting a hearing, determined it is
16 "uncontested that it is technically feasible for Iowa Telecom to provide LNP in
17 the exchanges at issue in this case."¹⁹ Moreover, in other states, a sizable
18 percentage of the rural LECs have already installed needed LNP upgrades in their
19 networks. Indeed, the FCC ruled that there is "no persuasive evidence in the
20 record" indicating that LEC-wireless porting even poses "technical difficulties."²⁰

¹⁹ *Iowa Telecommunications Services*, Docket No. SPU-02-18 (SPU-02-19), 2003 Iowa PUC LEXIS 141 at *14 (Iowa Utilities Board, April 15, 2003).

²⁰ *Lec-Wireless Porting Clarification Order* at ¶ 23.

1 Q. Have the Petitioners demonstrated that LNP would be unduly economically
2 burdensome?

3
4 A. No. Section 251(f)(2) permits the Commission to relieve ILECs of their LNP
5 obligation if such action is “necessary to avoid imposing a requirement that is
6 unduly economically burdensome.”²¹ While not many state commissions have
7 addressed this issue, the Ohio Commission has held that the statutory phrase,
8 “unduly economically burdensome,” means economic burdens “beyond the
9 economic burdens typically associated with efficient competitive entry.”²² The
10 Montana Commission has similarly ruled that the petitioners must present
11 “evidence demonstrat[ing] an economic burden ... beyond that which is normal
12 when competitors enter a market.”²³

13
14 In addition, it is important to note that the FCC has already developed a federal
15 cost recovery plan that enables ILECs to recover their LNP implementation costs.

16 FCC Rule 52.33(a) provides:

17 Incumbent [LECs] may recover their carrier-specific costs
18 directly related to providing long-term number portability by
19 establishing in tariffs filed with the [FCC] a monthly number
20 portability charge, as specified in paragraph (a)(1), a number
21 portability query-service charge, as specified in paragraph (a)(2),
22 and a monthly number portability query/administration charge, as
23 specified in paragraph (a)(3).²⁴
24

²¹ 47 U.S.C. § 251(f)(2)(A)(ii).

²² *Western Reserve Petition*, Case Nos. 99-1542-TP-UNC and 00-430-TP-UNC, 2002 Ohio PUC LEXIS at *13 (Public Utility Comm’n of Ohio, May 18, 2000), quoting *Local Competition Order*, 11 FCC Rcd 15499, 16118 ¶ 1262 (1996).

²³ *Ronan Telephone Section 251(f)(2) Petition Denial Order*, Docket No. D99.4.11, Order No. 6174c, 1999 Mont PUC LEXIS 83 (Montana Public Service Comm’n, Nov. 2, 1999).

1 As a result, implementation of LNP by Petitioners would not constitute an
2 unfunded mandate, and, it is, therefore, difficult to contend that the recoverable
3 costs of LNP will be unduly economically burdensome to these carriers.

4 **Q. Have the Petitioners demonstrated that LNP Would Impose Significant**
5 **Adverse Impact On Customers Generally?**
6

7 A. The Petitioners have not met their burden of proof because the record contains no
8 information about the impact that LNP costs would have on Petitioners'
9 customers. The Indiana Utility Regulatory Commission ("IURC") was faced with
10 a similar circumstance and determined, "[u]nfortunately, Petitioners did not
11 provide evidence of what a potential end user LNP surcharge would be, and
12 therefore we cannot gauge any potential impact. To evidence a potential
13 economic burden caused by LNP, a carrier must include an analysis of
14 incremental cost or allocation."²⁵ In denying the petitioners' requests for LNP
15 suspension, the IURC ultimately determined that the Petitioners' evidence offered
16 in support of economic burden and significant customer impact failed for the
17 requisite level of detail and lack of particularity.²⁶
18

19 Petitioners also argue that the benefits of LNP will be enjoyed by the few but the
20 costs will be spread across the many. The TRA must understand that the benefit
21 of LNP is not enjoyed solely by those who port their numbers. Local number
22 portability is a way to inject competition in the local market with portability

²⁴ 47 C.F.R. § 52.33(a) See also *Thrd LNP Order*, 13 FCC Rcd 11701, 11773-80, ¶¶ 135-49 (1998), *aff'd*,
Thrd LNP Reconsideration Order, 17 FCC Rcd 2578 (2002), 47 U.S.C. §251(e)(2).

²⁵ See, *Indiana Order* at p. 22.

1 available to all potential customers. Admittedly, LEC implementation of LNP
2 will likely result in a new federal LNP surcharge imposed on LEC customers.²⁷
3 LEC customers, however, will also receive offsetting benefits. As the FCC has
4 recognized:

5 We recognize consumers' sensitivity to end-user charges. . . . We
6 anticipate that the benefits of number portability, namely the
7 increased choice and lower prices that result from the competition
8 that number portability helps make possible, will far outweigh the
9 initial costs.²⁸

10 In short, it is unfair to attribute costs only to those who actually port their numbers
11 when all telecommunications consumers benefit from LNP—including those who
12 don not port their numbers.
13

14 **Q. Have the Petitioner's demonstrated that the suspension is consistent with the**
15 **public interest, convenience and necessity as required by Section 251(f)(2)?**

16 **A.** No. Even if Petitioners had demonstrated that suspension is necessary under one
17 of the three statutory criteria already discussed—which they have not—they must
18 also demonstrate that suspension is consistent with the public interest,
19 convenience and necessity. To the contrary, the public interest will be
20 affirmatively harmed by granting the Petitioner's request for suspension of their
21 LNP obligation.
22

²⁶ *Id.* at p. 21 and 28.

²⁷ RLECs are not required to impose LNP surcharges on their customers. The decision whether or not to impose such a surcharge is a business decision made by each company. *See Third LNP Order*, 13 FCC Rcd at 11775 ¶ 139.

²⁸ *Third LNP Order*, 13 FCC Rcd 11701, 11707 ¶ 10 (1998).

1 Petitioners offer very little fact or substance to support their argument that
2 suspension is consistent with the public interest, convenience and necessity.
3 Petitioners essentially argue that the costs to provide LNP outweigh the benefits
4 because customers are not interested in receiving LNP service. As discussed
5 above, this is a very narrow and short-sighted view of LNP. LNP will have an
6 effect on a given local market over time and its benefits extend far beyond just
7 those who port their numbers. Indeed, Congress and the FCC believed so
8 strongly in LNP that it became a critical component of the competitive regime
9 that Congress and the FCC sought to foster in the 1996 Act and its
10 implementation.

11
12 The FCC directly addressed the public interest issue in a May 6, 2004 letter
13 directed to the National Association of Regulatory Utility Commissioners:

14
15 When considering requests to waive these important, consumer-
16 friendly obligations, states should remain mindful of the tremendous
17 customer benefits that porting generates. I know that NARUC and
18 the FCC agree that the ability of wireless and wireline consumers to
19 port their numbers remains central to producing competition, choice,
20 lower costs, and increased innovation. *These benefits are*
21 *particularly important in rural areas where competition may be*
22 *less robust in more urban markets.*²⁹
23

24 Additionally, LNP will conserve scarce number resources because it will facilitate
25 the ability of rural ILECs to participate in thousands-block number pooling.

26 Nationwide, the number utilization rate for all telecommunications carriers is 39.2

1 percent.³⁰ The average utilization rate for wireless carriers is 47.8 percent.³¹ In
2 contrast, the average utilization rate of rural LECs is 18.1 percent.³² The problem
3 is that if Petitioners are relieved of their obligation to provide LNP, they will also
4 be relieved of having to participate in number pooling. The FCC recently adopted
5 a plan “exempt[ing] rural telephone companies . . . that have not received a
6 request to provide LNP from the pooling requirement”:

7 We therefore exempt from the pooling requirement rural telephone
8 companies, as defined in the Communications Act of 1934, as amended
9 (the Act), that have not received a request of provide LNP.³³

10

11 Hence, the Commission’s grant of the LNP suspension would relieve the
12 Petitioners of their responsibility to participate in number pooling and the tens of
13 thousands of telephone numbers they do not use will continue to be stranded for
14 the duration of any suspension the Commission grants. Wireless and other
15 competitive carriers that begin serving customers in the Petitioners’ exchanges
16 will be required to obtain their own NXX blocks for each exchange, rather than
17 using thousands blocks from the numbers the incumbents do not use.

18 The FCC has held that implementation of “number pooling should be as
19 expansive as possible in order to promote efficient and effective numbering
20 resource optimization”:

²⁹ May 6, 2004 letter from K Dane Snowden, Chief Consumer & Governmental Affairs Bureau of the FCC, addressed to Stan Wise, President, National Association of Regulatory Utility Commissioners (emphasis added).

³⁰ See FCC Industry Analysis and Technology Division, *Numbering Resource Utilization in the United States as of December 31, 2002*, Table 1 (July 2003)

³¹ See *id*

³² See *id*, Table 3.

³³ *Fourth Numbering Resource Optimization Order*, CC Docket No. 99-200, FCC 03-126, at ¶¶ 1 and 18 (June 18, 2003).

1 Pooling is essential to extending the life of the NANP by making
2 the assignment and use of central office codes more efficient.³⁴
3

4 Sprint PCS submits that the interests of all Tennessee residents are not served
5 when the Petitioners do not fully utilize Tennessee telephone numbers. And the
6 interests of Tennessee residents is not served if wireless or other competitive
7 carriers require assignment of yet additional unused numbers (in the form of NXX
8 codes) because Petitioners do not support number pooling. In short, the public
9 benefit, convenience and necessity is doubly served through LNP implementation
10 because it also results in number pooling.

11 **Q. Do you wish to summarize your testimony?**

12 **A.** Yes. The TRA should reject the Petitioners' requests for suspension of LNP.
13 Sprint has taken all the necessary and proper steps in its effort to bring intermodal
14 LNP to consumers in Petitioners' territories. Unfortunately, these carriers have
15 done everything in their power to avoid LNP. Sprint urges the TRA to deny the
16 Petitioners' requests for suspension of their LNP obligation. As demonstrated
17 above, Petitioners have not met their heavy burden under Section 251(f)(2)
18 because:

- 19 ▪ LNP is technically feasible (as admitted by the Petitioners' own statements);
- 20 ▪ the recoverable costs of LNP implementation are not unduly economically
21 burdensome;
- 22 ▪ the Petitioners have offered no evidence demonstrating a significant adverse
23 impact to Petitioners' customers; and,

³⁴ *Id* at ¶ 15

1 ▪ the Petitioners have not demonstrated that suspension of LNP is consistent
2 with the public interest, convenience and necessity; indeed, it would be
3 affirmatively harmed.

4

5 Sprint looks forward to porting with these carriers beginning as soon as possible.

6

7 **Q. Does this conclude your testimony?**

8 A. Yes.

9

10

11